

Application No. 09/730,221
Response to OA of 01/04/2006

Remarks

In the present response, four claims (1-3 and 12) are amended. Claims 1-27 are presented for examination.

I. Claims Rejection: 35 USC § 112

Claim 2 is rejected under 35 USC 112, second paragraph, as being indefinite. Claim 2 is amended to recite "the portion of cells." Antecedent basis for this recitation is found in line 1 of claim 1.

Applicants respectfully request withdrawal of this rejection.

II. Claims Rejection: 35 USC § 102(b)

Claims 1 - 27 are rejected under 35 USC § 102(e) as being anticipated by USPN 6,226,734 (Kleinsorge). Applicants respectfully traverse this rejection.

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See MPEP § 2131, also, *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983). Since Kleinsorge neither teaches nor suggests each element in the claims, these claims are allowable over Kleinsorge.

Claim 1 and 12

Independent claims 1 and 12 recite numerous limitations that are not taught or suggested in Kleinsorge. By way of example, claim 1 recites "delaying formation of the partition to allow other cells associated with the said partition to reach said first rendezvous state" (emphasis added). The Office Action cites Kleinsorge at column 32, lines 17-25. This section of Kleinsorge teaches an automatic migration policy wherein a CPU is migrated to a pre-defined partition. Notice that the partition is already formed. In other words, the CPU in Kleinsorge migrates to an existing partition. Nowhere does Kleinsorge teach or suggest that this formation of this partition is delayed while other cells associated with the partition reach a rendezvous state.

For at least these reasons, independent claims 1 and 12 and their dependent claims are allowable over Kleinsorge.

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As another example, claim 1 recites that cells "determine which cells reached the second rendezvous state in order to exclude and include cells in the formation of the partition." Nowhere does Kleinsorge teach or suggest these recitations. In Kleinsorge, CPUs are able to migrate to existing partitions. Kleinsorge never teaches or suggests that partitions are formed based on a determination which CPUs reach a specific rendezvous state in order to exclude and include CPUs in the formation of the partition.

For at least these reasons, independent claims 1 and 12 and their dependent claims are allowable over Kleinsorge.

Claim 21

Independent claim 21 recites numerous recitations that are not taught or suggested in Kleinsorge. For example, claim 21 recites:

transitioning to a partition formation state, by each cell, at the earliest of (i) an expiration of a timer, (ii) all cells, within the same partition as indicated in said configuration data, setting their respective registers, and (iii) another cell within the same partition indicating transition to said partition formation state.

The Office Action cites Kleinsorge at column 32, lines 17-25. This section of Kleinsorge teaches an automatic migration policy wherein a CPU is migrated to a pre-defined partition. Notice that the CPU transitions to this partition when the CPU reaches its crash logic. By contrast, claim 21 recites three separate elements (namely i, ii, and iii) when a cell transitions to the partition formation state. Nowhere does Kleinsorge teach each of these three separate elements (namely i, ii, and iii). Applicants respectfully remind the Examiner that in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

For at least these reasons, independent claim 21 and its dependent claims are allowable over Kleinsorge.

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As another example, claim 21 recites "attempting to determine, by each cell, which other cells belonging to the same partition, have transitioned to said partition formation state to generate a respective local partition set." Nowhere does Kleinsorge teach or suggest these recitations. The Office Action cites column 11, line 47 through column 12, line 37. This section of Kleinsorge teaches that a console program implements and enforces configuration constraints for the partition. Specifically, the console program specifies how CPUs are grouped. By contrast, claim 21 recites that **each cell** determines which other cells belong to the same partition. Kleinsorge never states that each CPU in a partition determines which other CPUs belong to the same partition.

For at least these reasons, independent claim 21 and its dependent claims are allowable over Kleinsorge.

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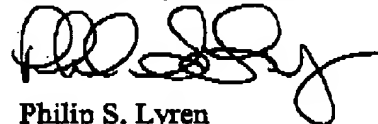
CONCLUSION

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. (281) 514-8236, Facsimile No. (281) 514-8332. In addition, all correspondence should continue to be directed to the following address:

Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Respectfully submitted,



Philip S. Lyren
Reg. No. 40,709
Ph: 281-514-8236

CERTIFICATE UNDER 37 C.F.R. 1.8

The undersigned hereby certifies that this paper or papers, as described herein, is being transmitted to the United States Patent and Trademark Office facsimile number 571-273-8300 on this 27th day of March, 2006.

By 
Name: Carrie McKerley